

NSC review completed.

THE WHITE HOUSE
WASHINGTON

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9/14/82

CABINET AFFAIRS STAFFING MEMORANDUM

Executive Registry

82-5936

Sept. 13, 1982

072888CA

DATE: _____ NUMBER: _____ DUE BY: _____

SUBJECT: Attendance of Non-Executive Branch Personnel at Cabinet Council Meetings

| | ACTION | FYI | | ACTION | FYI |
|---------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| ALL CABINET MEMBERS | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Baker | <input type="checkbox"/> | <input type="checkbox"/> |
| Vice President | <input type="checkbox"/> | <input type="checkbox"/> | Deaver | <input type="checkbox"/> | <input type="checkbox"/> |
| State | <input type="checkbox"/> | <input type="checkbox"/> | Clark | <input type="checkbox"/> | <input type="checkbox"/> |
| Treasury | <input type="checkbox"/> | <input type="checkbox"/> | Darman (For WH Staffing) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Defense | <input type="checkbox"/> | <input type="checkbox"/> | Harper | <input type="checkbox"/> | <input type="checkbox"/> |
| Attorney General | <input type="checkbox"/> | <input type="checkbox"/> | Jenkins | <input type="checkbox"/> | <input type="checkbox"/> |
| Interior | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Agriculture | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Commerce | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Labor | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| HHS | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| HUD | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Transportation | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Energy | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Education | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| Counsellor | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| OMB | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| CIA | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| UN | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| USTR | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> |
| CEA | <input type="checkbox"/> | <input type="checkbox"/> | CCCT/Gunn | <input type="checkbox"/> | <input type="checkbox"/> |
| CEQ | <input type="checkbox"/> | <input type="checkbox"/> | CCEA/Porter | <input type="checkbox"/> | <input type="checkbox"/> |
| OSTP | <input type="checkbox"/> | <input type="checkbox"/> | CCFA/Boggs | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | CCHR/Carleson | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | CCLP/Uhlmann | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | CCNRE/Boggs | <input type="checkbox"/> | <input type="checkbox"/> |

REMARKS:

Occasionally a question arises about inviting or permitting non-Executive Branch personnel to attend Cabinet Council meetings. The White House Counsel's Office has provided the attached guidance which is forwarded for information.

TO: SECRETARY SHULTZ
B ATTN: Sheila Lopez
(632-3204)

TO: AMBASSADOR KIRKPATRICK
B ATTN: Jackie Tillman (632-8344)

TO: DIRECTOR CASEY
A ATTN: _____

TO: SECRETARY WEINBERGER
D ATTN: LT COL HIGGINS (695-0028)

RETURN TO:

✓ Craig L. Fuller

□ Becky Norton Dunlop

DCI
EXEC
REG

THE WHITE HOUSE

WASHINGTON

September 8, 1982

MEMORANDUM FOR CRAIG L. FULLER
ASSISTANT TO THE PRESIDENT
FOR CABINET AFFAIRS

FROM: FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT: Attendance of Non-Executive Branch
Personnel at Cabinet Council Meetings

Questions have periodically arisen about the appropriateness of inviting persons who are not Federal employees or members of the Executive Branch to attend Cabinet Council meetings on various topics in which such persons may have an interest.

As a general matter, such persons should not be invited to attend Cabinet Council meetings. In the first place, the presence of non-Executive Branch personnel at such a meeting can seriously undermine the confidentiality that would otherwise protect pre-decisional Executive deliberations at the Cabinet level. With respect to this confidentiality problem, it is important to remember that the presence even of certain Federal employees can create difficulties. For example, the attendance of an official of an "independent" regulatory agency might be deemed to prevent the meeting in question from constituting confidential deliberations within the Executive Branch.

In addition, the Federal Advisory Committee Act -- which has a variety of "notice," "open meeting" and other requirements that would be extremely cumbersome and inappropriate if applied to Cabinet Council meetings -- has been interpreted by some courts as applying even to one-time meetings between Government personnel and outside parties. While this is an extreme case, and involves an interpretation of the Act that the Administration would oppose in court, it highlights the importance of not permitting non-Federal employees to attend Cabinet Council meetings. The Act contains an exemption for groups comprised exclusively of full-time Federal employees; unless and until legislation containing further relevant exemptions is enacted, it is important not to take the risk that actions might be challenged in court because non-Federal employees attended a meeting and Advisory Committee Act requirements were not met.

Our office will be happy to help answer any specific questions you may have about these matters.